

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

R&B Department – Roads - Visakhapatnam District - Construction of Ghat Road from Damuku to Nimmalapadu – High Court directions for paying Sales Tax to Commercial Taxes Department for an amount of Rs.46.72 lakhs and to waive the rest of the amount of Rs.15.11 lakhs – Orders – Issued.

TRANSPORT, ROADS AND BUILDINGS (ROADS.V) DEPARTMENT

G.O.Ms.No:289

Dated : 03-10-2008
Read the following:-

1. G.O.Ms.No. 279, TR&B Dept., Dt.31-10-1994.
2. From the High Court of A.P., Judgment dt.31-12-2007
in WP No. 3396/2004.
3. G.O.Ms.No.625, Revenue (CT.II) Dept., Dt.30-04-2008.

ORDER:

In the G.O. first read above, Government have accorded Administrative Sanction for the work "Construction of Ghat Road from Damuku to Nimmalapadu from Km.0/0 to 22/0 in Visakhapatnam district". The road has been laid on cost sharing basis at the ratio of 50:50 between the Government of Andhra Pradesh and M/s Birla Periclace Ltd. The work was entrusted to the Director General, Border Roads Organisation for execution. The APIIC has been appointed as the Sponsoring Agency for this project and VC&MD, APIIC was authorized to enter into MOU on behalf of Government of Andhra Pradesh with BRO.

2. The Border Roads Organisation executed the work as a deposit work and refunded an amount of Rs.46.72 lakhs as savings to the Executive Engineer (R&B), Visakhapatnam District. Government in G.O.Ms.No.131, TR&B (R.V) Department, Dt.8-9-2000, have issued orders permitting the ENC(R&B), Roads, Hyderabad to release Rs.23.36 lakhs to M/s Birla Periclace towards 50% of share from the unspent balance amount.
3. The CTO, East Circle, Vizianagaram issued a show cause notice to the Director General, BRO to pay tax of Rs.61,83,800/- on the net turnover of Rs.8,83,40,000/- stating that the Director General, BRO is the contractor of works and hence the BRO is liable to pay tax U/s 5F of APGST Act.
4. In the meanwhile, the BRO approached the Govt. of A.P. through the Commissioner, Commercial Taxes of Andhra Pradesh. After careful consideration, the Government in Revenue Department have informed that as per law, any dealer aggrieved by any order passed by the assessing authority has to file an appeal before Appellate Deputy Commissioner to seek redressal. But the BRO has not filed any appeal. Hence, requested the BRO to pay an amount of Rs.61,83,800.00 lakhs to the CTO, Vizianagaram. The BRO have filed WP No. 3396/2004 in the Hon'ble High Court challenging the proceedings of CTO, Vizianagaram on payment of sales tax. The Department of Commercial Taxes has filed the CA on the WP, filed by BRO.
5. In the reference 2nd read above, the Hon'ble High Court of A.P has delivered its judgment on 31-12-2007 directing to constitute a Committee headed by the Chief Secretary of Andhra Pradesh, to examine the issue and to take a decision. In compliance with the directions of the High Court, the Revenue (CT.II) Dept. have issued orders vide G.O.Ms.No.625, Revenue (CT.II) Department, Dt.30-04-2008, constituting a Committee.

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6. The High level committee constituted vide G.O.Ms.No.625, Revenue (CT.II) Department, Dt.30-04-2008 headed by the Chief Secretary to Government of Andhra Pradesh based on the High Court Orders the Chief Secretary along with the Principal Secretary to Government, TR&B Department have convened a meeting on 20-06-2008 with the officials of Commercial Tax Department and APIIC and R&B officials and decided to direct the Engineer-in-Chief (R&B), State Roads to pay an amount of Rs.46.72 lakhs which was refunded by the Border Roads Organisation to Commercial Tax Department in lieu of Sales Tax. The amount of Rs.23.36 lakhs paid to M/s Birla Periclase towards 50% of share vide G.O.Ms.No.131, TR&B (R.V) Department, Dt.8-9-2000 i.e., (Rs.46.72/2 - Rs.23.36 lakhs) is not possible to get back since M/s. Birla Periclase was closed long back and also the balance amount of Rs.15.11 lakhs has to be waived at later date.

7. Accordingly, Government after careful examination of the matter hereby order the Engineer-in-Chief (R&B), State Roads to remit an amount Rs.46.72 lakhs returned by the BRO to the Commercial Taxes Department as the APGST.

8. The Engineer-in-Chief (R&B), State Roads shall take necessary action in the matter and to furnish necessary proposals for waiver of balance amount of Rs.15.11 lakhs to be paid to Commercial Tax Department.

9. This order issues with the concurrence of the Finance (Expr.PW) Department vide U.O.No:26310-B/1281/AV/Expr.PW/08, Dated:26-09-2008.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.T. CHATTERJEE
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Engineer-in-Chief (R&B), Roads, A.P., Hyderabad.
The Commissioner, Commercial Taxes Department.
The Managing Director, APIIC, Department.
The Director General, Border Roads Organisation.
The Accountant General, Andhra Pradesh, Hyderabad.
The Pay & Accounts Officer, Hyderabad.
The Director of Treasuries & Accounts, Hyderabad.

Copy to:

The Finance (Exp.PW) Department
The P.S. to Chief Secretary to Government
The P.S. to Minister for Roads & Buildings.
The P.S. to Principal Secretary to Government (TC), TR&B Department.
The P.S. to Principal Secretary to Government, Revenue Department.
The P.S. to Principal Secretary to Government, Finance Department.
SF/SC.

// FORWARDED:::BY ORDER //

SECTION OFFICER